

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

**RECEIVED**  
**DEC 17 1999**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
CELLCO PARTNERSHIP	)	CC DOCKET No. 96-45
d/b/a BELL ATLANTIC MOBILE	)	FCC 97-419
	)	
Petition for Designation as an	)	
Eligible Telecommunications Carrier	)	

**COMMENTS OF  
THE CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Cellular Telecommunications Industry Association ("CTIA")<sup>1</sup> hereby submits comments in support of the Petition for Designation as an Eligible Telecommunications Carrier ("ETC") filed by Cellco Partnership d/b/a Bell Atlantic Mobile ("Cellco").<sup>2</sup> Cellco seeks ETC designation for Maryland and Delaware and asserts that the FCC has the authority to grant ETC status pursuant to Section 214(e)(6) of the Communications Act.

Section 214(e)(6) provides for ETC designation of carriers not subject to state commission jurisdiction. Specifically, Section 214(e)(6) states, in relevant part:

---

<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including 48 of the 50 largest cellular and broadband personal communications service ("PCS") providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

No. of Copies rec'd 215  
List ABCDE

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable federal and State law.<sup>3</sup>

The elements of Section 214(e)(6) which trigger ETC designation by the FCC are: (1) common carrier status, (2) provision of telephone exchange service and exchange access, and (3) lack of a state commission's jurisdiction over the carrier. Cellco has demonstrated that each element of Section 214(e)(6) is met, warranting FCC action on its request for ETC status in Maryland and Delaware.<sup>4</sup>

**A. The First Two Elements of Section 214(e)(6)**

Cellco is a common carrier. It holds licenses in the Domestic Public Cellular Radio Telecommunications Service.<sup>5</sup> Section 20.9 of the Commission's rules states that Domestic Public Cellular Radio Telecommunications Service shall be treated as common carriage services and regulated as CMRS.<sup>6</sup> Thus, the first element of Section 214(e)(6) is met.

---

<sup>2</sup> Petition for Designation as an Eligible Telecommunications Carrier, filed September 8, 1999, Cellco Partnership d/b/a Bell Atlantic Mobile.

<sup>3</sup> 47 U.S.C. Section 214(e)(6) (emphasis added).

<sup>4</sup> Specifically, Cellco requests ETC designation for the entire state of Delaware since its cellular geographic service areas completely cover that state. Cellco limits its request for ETC status in Maryland to three license areas, the Baltimore MSA, Maryland 2 RSA-Kent, and Maryland 3 RSA-Frederick. A carrier petitioning to be an ETC may request designation in a particular service area.

<sup>5</sup> Cellco Petition at 5.

<sup>6</sup> 47 C.F.R. Section 20.9(a).

The second element of Section 214(e)(6) is met because the Commission has found that CMRS carriers provide telephone exchange service and exchange access as defined by the 1996 Telecommunications Act.<sup>7</sup>

**B. Cellco Is Not Subject to Delaware and Maryland State Commission Jurisdiction**

Pursuant to Section 214(e)(6), the Commission shall designate as an ETC a common carrier providing telephone exchange service and exchange access service that is not subject to the jurisdiction of a State commission, so long as the carrier otherwise meets the Act's requirements. Cellco has demonstrated that the Maryland and Delaware commissions do not have jurisdiction over wireless carriers.<sup>8</sup> The Delaware state legislature specifically divested the Delaware Public Service Commissions of jurisdiction over cellular technology.<sup>9</sup> The Maryland legislature excluded cellular telephone companies from the definition of a "public service company" over which the Maryland PSC has jurisdiction.<sup>10</sup> The fact that the Maryland PSC and the Delaware PSC have no authority to grant ETC status to wireless carriers triggers 214(e)(6). Thus, the only

---

<sup>7</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 at paragraph 1012 (1996).

<sup>8</sup> Cellco petition at 6-8.

<sup>9</sup> 26 Del. Code Ann. Section 202(c).

<sup>10</sup> See Md. Ann. Code, Public Utilities Companies Article, Sections 2-112 and 1-101(p). Since the focus of Section 214(e)(6), by its terms, is on the absence of state commission jurisdiction over carriers, the FCC need not address the broader question of whether Maryland and Delaware have no jurisdiction over CMRS services beyond the preemption of state rate and entry regulation under Section 332(c). If the requirements for ETC designation are otherwise met and the elements of Section 214(e)(6) are satisfied, the FCC shall grant ETC status to the requesting carrier.

regulatory body empowered to grant ETC status to Cellco for the requested service areas in Maryland and Delaware is the FCC.

**C. Cellco Offers All of the Services Supported by Universal Service Support Mechanisms**

Cellco addressed the nine services and functionalities identified in the Commission's rules, 47 C.F.R. 54.101(a), that are the core services to be offered by an ETC and supported by federal universal service support mechanisms.<sup>11</sup> Cellco's universal service offering will be provided over its existing cellular network infrastructure and spectrum. Cellco further states that various Cellco offerings may be appropriate, including its prepaid cellular product.<sup>12</sup> Cellco has satisfied the requirements of Sections 254 and 214(e)(1)(A) of the Communications Act of 1934 and Section 54.101(a) of the Commission's rules regarding ETC eligibility.

---

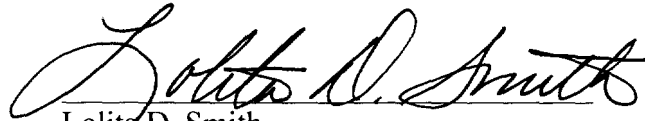
<sup>11</sup> Cellco petition at 8-13.

<sup>12</sup> Cellco petition at 3.

**D. Conclusion**

For the foregoing reasons, the Commission should exercise its authority to grant ETC status to Cellco for the requested areas of Maryland and Delaware.

Respectfully submitted,

A handwritten signature in cursive script, reading "Lolita D. Smith".

Lolita D. Smith  
Staff Counsel

Michael F. Altschul  
Vice President & General Counsel

Randall S. Coleman  
Vice President  
Regulatory Policy & Law

**CELLULAR TELECOMMUNICATIONS  
INDUSTRY ASSOCIATION**  
1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, D.C. 20036

December 17, 1999